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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,221	02/13/2002	Kiyohide Sakai	027260-513	4807
7590	10/16/2003		EXAMINER	
Platon N. Mandros BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404			JACKSON, CORNELIUS H	
			ART UNIT	PAPER NUMBER
			2828	

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HC

<b>Office Action Summary</b>	<b>Applicant No.</b>	<b>Attentant(s)</b>
	10/073,221	SAKAI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Cornelius H. Jackson	2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 13 February 2002.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

  
**PAUL J. P.**  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 2800

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the incident angle adjusting mechanism and the pumping light-signal light coupling means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the substrate, cladding layer(s), buffer layer(s), electrode(s), guide layer(s), barrier layer(s), well layer(s), etc.

6.. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite since the claim limitations fails to definite the invention in scope with the preamble. It is the Examiner's view that the claims are written using circular reasoning (e.g. A semiconductor laser device comprising a semiconductor laser).

7. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the guide layer, the layer and the active layer, since it is unclear as to what is meant by a layer being outside of another layer.

8. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a signal light source.

9. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the semiconductor laser and the coupling means, the semiconductor laser and the rare-earth-doped optical fiber, and the coupling means and the rare-earth-doped optical fiber. The claims and specification fails to disclose how the elements above are physically arranged. Also, it is unclear how the rare-earth-doped optical fiber being pumped by the pumping light amplifies the signal light, when the signal light is not introduced into the rare-earth-doped optical fiber.

10. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite since the claim limitations fails to definite the invention in scope with the preamble. It is the Examiner's view that the claims are written using circular reasoning (e.g., An optical fiber amplifier comprising *an* optical fiber to amplify).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namiwaka (6411639). Regarding claims 1, 8 and 13, Namiwaka teaches a semiconductor laser device **Fig. 1** comprising an optical fiber **5** having an optical fiber grating **6**; a semiconductor laser **1** having an active layer for emitting laser light; and a coupling optical system **2-4** for coupling the laser light emitted out of the semiconductor laser **1** into the optical fiber **5**. Namiwaka fails to teach that the active layer is made having a single or multiple quantum well layers. An active layer made of either a single or multiple quantum well layers are well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any type of active layer one desired in order to obtain a desired wavelength output, power, and/or efficiency. In this case, it is known that an active layer made of either a single or multiple quantum well layers are more efficient than other active layer type due to lower current lasing threshold. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 2 and 14, Namiwaka teaches a narrow-band filter **4** for adjusting an incident angle of the laser light emitted out of the semiconductor laser.

Regarding claims 3 and 15, Namiwaka teaches all the stated limitations, **see col. 3, lines 41-55.**

Regarding claims 4 and 16, Namiwaka teaches all the stated limitations, **see the rejections to claims 1-3 and 13-15 above.**

Regarding claims 5 and 17, Namiwaka teaches all the stated limitations, **see Fig. 1.**

Regarding claims 6, 7, 18 and 19, Namiwaka teaches all the stated limitations, **see col. 3, lines 56-63.**

Regarding claims 9 and 20, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 10, 12, 21 and 22, it has been held “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Regarding claim 11, the presence of process limitations on product claims, which product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens* 145 USPQ 656 (CCPA 1965).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cornelius H. Jackson whose telephone number is (703) 306-5981. The examiner can normally be reached on 8:00 - 5:00, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



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